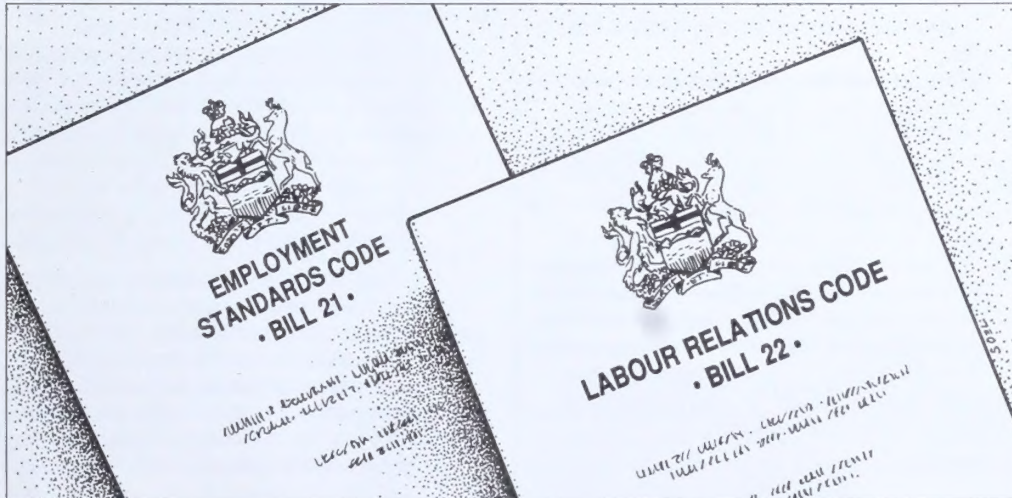


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New Employment Standards and Labour Bills



"The Legislation will help to create an environment of co-operation through effective employment standards and labour relations. Moreover, Government's role will continue to be minimized."

Extensive Public Input To Bill 60 Draft Carefully Reviewed

Labour Minister Dr. Ian Reid introduced **Bill 21 Employment Standards Code** and **Bill 22 Labour Relations Code** in the Legislature on April 15, 1988.

The bills follow an extensive review of more than 300 public submissions and 200 meetings on Bill 60, which was originally introduced in the Legislature in draft form in June 1987 to allow time for full public input. Provisions specific to the needs of the province's unionized construction industry are currently covered by separate Legislation — Bill 53 the Construction Industry Collective Bargaining Act.

"The input received was from all sectors of the economy and has, without question, contributed to a strengthening of our proposed labour legislation," said Dr. Reid.

"After carefully reviewing the submissions, your Government felt there was a clear need

to distinguish between the relatively straight forward provisions of employment standards and the more complex nature of labour relations, through the two separate bills."

Bill 21, the Employment Standards Code, sets out the minimum provisions that apply to all employees and employers including payment of wages, hours of work and overtime, minimum wage, parental benefits, vacations, holidays, termination, and benefits, among others.

Bill 22, the Labour Relations Code, deals with the relationship between the employer and the unionized sector while confirming support for a free collective bargaining process. It addresses such subjects as mediation, arbitration, strikes and lockouts, and the operation of the province's Labour Relations Board.

Legislation Review Committee

The bills reflect the recommendations of the Final Report of the Labour Legislation Review Committee. The Committee, representing labour, management, and the public-at-large, set out a comprehensive basis for employee/employer relationships while emphasizing the basic principles of fairness and equity.

Both bills have virtually identical preambles clearly expressing the spirit and intent of the legislation while recognizing the need to balance the rights and obligations of employees and employers.

(Continues on page 4)

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Highlights Of Bill 21 — *Employment Standards Code*

SUMMARY: Bill 21, the Employment Standards Code, sets out the minimum provisions that apply to all employees and employers including payment of wages; hours of work and overtime, minimum wage, parental benefits, vacations, holidays, termination and benefits.

1 Communication and Education

Through communication and education, the Minister of Labour may promote fair and equitable employment standards in Alberta.

Where an employer and his/her employees, at a single work site, are encountering difficulty in establishing an effective communications environment, the government may establish structures and procedures to improve the employment relationship.

- A) Where practical, employers must provide the Minister of Labour four weeks written notice in advance of laying off more than 50 employees. This communication provision will allow the Government to implement adjustment or retraining programs for the laid-off employees.

2. Administration

There are a number of administrative changes found throughout the code which will assist in providing clarification of the legislation, complaint resolution, and collection of employee's earnings.

3. Major Provisions Which Reflect the Needs of Albertans in Employment Standards Legislation

A) Hours of Work

- (i) Maximum daily hours of work permitted will remain at 12 hours.
- (ii) Compressed Work Weeks will remain as an alternative for those employees and employers who wish to increase their daily hours of work in consideration for increased rest days.
- (iii) Paid time off in lieu of overtime pay will continue to be enjoyed in individual and majority consent agreements.

B) Rest Period

An employee will be entitled to a one-half hour paid or unpaid rest period during each shift that exceeds five consecutive hours of work. Where a rest period is not reasonable, an exemption is available.

C) Vacations

Vacation and vacation pay requirements reflect the contribution and commitment of long-service employees. An employee with five or more years of service will be

entitled to three weeks of annual paid vacation.

D) Individual and Group Notice

- (i) Individual notice of termination provisions provide for greater notice, or payment in lieu of notice, to long-term employees. Employees with several years of service are afforded a reasonable period to seek alternate employment or retraining (e.g. eight-weeks notice for 10 years of service).
- (ii) Employees are required to provide up to two-weeks notice to an employer when terminating employment. This allows small business employers to make arrangements for staffing adjustments and to maintain continuity of service. There are circumstances where the employee need not give notice.

E) Parental Benefits

An adopting parent will have eight weeks of unpaid leave commencing with the custody of the child under three years old. This change recognizes the need for a bonding period between the parent and the child and the comparable needs of adoptive rather than biological parent.

F) Employee Wage Protection

The Code deems employee's earnings to be held in a statutory trust on a daily basis. Therefore, wages will not be considered as part of the assets in an insolvency situation. Secured creditors will retain priority in most circumstances. This change will enhance the unpaid employee's capacity to obtain wages upon the insolvency of his/her employer.

G) Employee Reinstatement

The Director of Employment Standards may, after consultation, order reinstatement and/or compensation in lieu of reinstatement when an employee's services are terminated as a result of a garnishment proceeding against him/her, giving evidence required under the Code or requesting anything to which he/she is entitled under the Code.

H) Notification of Pay Change

An employer must notify an employee of any proposed reduction in wages, overtime or

(Continues on page 4)

Highlights Of Bill 22 — Labour Relations Code

1 Communications and Education

Through communications and education, the Minister of Labour may collect and disseminate information he considers beneficial to the promotion of fair and equitable labour relations in the province, including the establishment of multi-sector advisory councils and round-table conferences.

2. Negotiating Procedures

The Labour Relations Code introduces a method of neutral third-party assistance, through the services of a mediator that provides for both early access to a mediator without a formal appointment as well as compulsory mediation with a formal appointment before any job action can be initiated. The formal appointment of a mediator will provide for the issuance of either recommended terms of settlement for the parties to vote on, or no recommendation. A mandatory "cooling off" period of 14 days must precede any job action contemplated by the parties which includes the taking of a strike or lockout vote by either party.

Parties can request Labour Relations Board supervision of votes on "last offers", as well as on mediator's recommendations if one party has already indicated acceptance.

3. Labour Relations Board Procedures

The Labour Relations Board will make available to parties involved in an application or dispute a number of informal and formal options.

Some cases will best be resolved by an informal procedure, in which the chairman may refer the issue to one or more Board members. If settlement efforts succeed, the matter will end.

Where the informal process would appear at the outset unlikely to result in a settlement, the Board will refer the matter directly to a three- or five- person Board for hearing. Formal hearings, similar to court proceedings, give parties the right to be represented; evidence is given under oath, and witnesses may be called and cross examined. Parties will be free to seek judicial review of the Board's activity.

A recommendation from a Board panel member in the informal process must first go to a balanced Board for hearing before proceeding to the courts. The Board, sitting formally, would hear the arguments and evi-

dence. Without this, the court would have little information on which to assess the merits of the case. The Board will retain full power of reconsideration.

4. Certification and Decertification Votes

The certification and decertification process will be initiated by an indication from the applicant that it has obtained the support of at least 40% of the persons affected.

Once the Labour Relations Board is satisfied with respect to the 40% support, a secret ballot vote will be conducted by the Board in which a majority (50% plus one) must indicate their support for certification or decertification.

In order to expedite the certification/decertification process, the chairman and vice-chairman of the Board are empowered to sit alone on specific issues associated with certification and decertification.

5. Bridging of Collective Agreements

Collective agreements are deemed to continue until a strike or lockout commences; the right of the bargaining agent to represent employees is terminated; or, a new collective agreement is concluded. Since a strike or lockout cannot occur except within the parameters of the bargaining procedure defined within the new Code and its environment of communications and education, collective agreements will remain in place while parties bargain or until a work stoppage occurs.

6. Status of an Employee During a Work Stoppage

No person ceases to be an employee if cessation of work is the result of a legal strike or legal lockout. As well, any employee not working because of his/her involvement in a legal work stoppage may apply to the employer to return to work in preference to any employee hired as a replacement worker.

Where the employers' operations are continuing, and the work the employee had performed continues, the employer shall reinstate the employee.

SUMMARY: Bill 22, the Labour Relations Code, deals with the relationship between the employer and the unionized sector, while confirming support for a free collective bargaining process. It addresses such subjects as mediation, arbitration, strikes and lockouts, and the operation of the province's Labour Relations Board.

A mandatory "cooling off" period of 14 days must precede any job action contemplated by the parties. This includes the taking of a strike or lockout vote.

New Labour Code

(from page 1)

"The Legislation will help to create an environment of co-operation through effective employment standards and labour relations," said Dr. Reid. "Moreover, Government's role will continue to be minimized. This is the clear message received from the Review Committee and Albertans."

Communication and Education

The bills also reflect the Committee's Final Report recommendations on the subject of communication and education as critical components of effective employee/employer relationships. These concepts have never been a formal part of any previous labour legislation.

"All parties realize it is essential that ongoing and frank communications must exist in order for the relationships to be effective," said Dr. Reid. "It should, by its nature, be a voluntary component."

Bills 21 and 22 set out the unqualified importance of open and honest communications while reinforcing government's role in providing advisory support.

Both bills will permit the Minister of Labour to establish one or more multi-sector advisory councils to generate a reliable information base to facilitate and enhance communications.

In Bill 22, dealing with labour relations, the Minister also may convene a conference of business, trade unions, and academic representatives, among others. This round table would help develop a general understanding of the province's economic circumstances and factors critical to continued economic growth.

Public Concerns Reflected

Where sections in Bill 60 were open to misinterpretation, required further elaboration, or were unworkable, they have been rewritten in the new bills. The principles remain unchanged.

Among others, concerns had been expressed on sections dealing with hours of work and overtime pay — the 'Christmas turkey' clause — the compressed work week, rest periods, vacations, the process of hearings by the Labour Relations Board, and the authority of the Board.

Many of these issues have already been addressed in the December and January issues of Labour News. Future issues will provide a more comprehensive overview of the new bills.

Special Mailing

Everyone who made submissions and those on the mailing list for Labour News, will automatically receive a copy of both bills.

Bill 21 Highlights

(from page 2)

entitlements prior to the commencement of the pay period in which the reduction is to take effect.

Construction Industry Legislation

Alberta's unionized construction industry is not covered by Bill 22. Permanent legislation relating to this industry is in the process of being reviewed and developed.

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